

CONFIDENTIAL

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Thursday - 8 May 1975

CIA INTERNAL USE ONLY

1. (Unclassified - WPY) Called Ron Kienlen of OMB, General Counsel's Office and informed him that we had no comments or suggestions concerning a proposed Executive Order amending Executive Order 10973, relating to the administration of foreign assistance and related functions and Executive Order 11501 relating to the administration of foreign military sales. The proposed Executive Order was prepared by the Department of State and does not affect CIA nor require Agency action.

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3. (Confidential - PLC) Jack Boos, Intelligence Subcommittee staff, House Armed Services Committee, called concerning the Agency's letter to [] advising him that the Agency could not utilize his machine translation machine. Boos said that [] was in to see him and claimed that the Agency was not given a demonstration of the device and further felt that those in the Agency whom he talked to were not at a very high level. I told Boos I would look again into the matter and call him.

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4. (Internal Use Only - KKH) Received a call from Bill Kroger, on the staff of Senator Howard W. Cannon (D., Nev.), requesting a personnel interview for [] will be interviewed by [] at 1000 hours on Friday, 9 May 1975.

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E.....IMPORT CL BY []

ROUTING AND RECORD SHEET

SUBJECT: (Optional)				
FROM:		EXTENSION		NO.
Office of Legislative Counsel				DATE
				21 April 1975
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. OGC	4/22/75	4/23	A	The attached proposed Executive Order amends Executive Order 10973 and Executive Order 11501 whereby functions vested in the President by the Foreign Assistance Act of 1961, as amended and the Foreign Military Sales Act, as amended are delegated to various Executive Branch officials. The proposed Executive Order delegates new Presidential functions under PL-93-559 and also reflects previously enacted amendments to the two acts cited above. It was written by the Department of State and does not appear to affect CIA nor require Agency action. ACTION: It is recommended that a "no objection" position be taken and such comment be communicated by telephone to Mr. Kienlen of OMB. CONCURRENCE: OG DD/
2. DD/O	24 APR 1975		B	
3.				
4. OLC				
5.				
6. Ron Kienlen of OMB was contacted on 5/8/75				
7. and informed of our "no objection" position to the				
8. proposed Executive Order.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

16 April 1975

TO: GLC

The attached proposed Executive Order Amends Executive Order 10973 and Executive Order 11501 whereby functions vested in the President by the Foreign Assistance Act of 1961, as amended and the Foreign Military Sales Act, as amended are delegated to various Executive Branch officials.

The proposed Executive Order delegates new Presidential functions under PL 93-559 and also reflects previously enacted amendments to two acts cited above.

The proposed Executive Order, written by the Department of State, affects principally that department. It does not affect CIA nor require Agency action. It is recommended that a "no objection" comment be submitted by telephone to Mr. Kienlen of OMB. The proposed Executive Order has not been submitted for comment to any Agency components.

WPY
Saves OK to me, but
believe we should at least
expose it to DD/O + OGC
Suggest you do the above
as the Rauling that note

with a concurrence line
for both of those offices,
Then Sunday I ~~was~~
in advance of the deadline

1 Co. Sec.

JTB



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

GENERAL COUNSEL

092 75-0995
April 9, 1975

Honorable William E. Colby
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Colby:

Herewith, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Amending Executive Order No. 10973, Relating to Administration of Foreign Assistance and Related Functions, and Executive Order No. 11501, Relating to Administration of Foreign Military Sales."

This proposed Order, along with the enclosed transmittal letter, was submitted by the Department of State.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving your comments concerning this Executive order. Comments or inquiries may be submitted by telephone to Mr. Ronald A. Kienlen (395-5600; IDS 103-5600). I will assume that you have no objection to the issuance of this proposed Order if your comments have not been received by Friday, May 9, 1975.

Sincerely,

William M. Nichols
William M. Nichols
Acting General Counsel

Enclosures



Washington, D.C. 20520

MAR 25 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20530

Dear Mr. Lynn:

In accordance with Executive Order 11030, as amended, there is submitted herewith a proposed Executive Order, together with seven copies, to implement the provisions of the Foreign Assistance Act of 1974 (Public Law 93-559, 88 Stat. 1795). The enclosed draft order amends Executive Orders 10973 and 11501, the principal instruments whereby functions vested in the President by the Foreign Assistance Act of 1961, as amended (hereinafter "the FAA"), and the Foreign Military Sales Act, as amended (hereinafter "the FMSA"), are delegated to various Executive Branch officials. There is also enclosed a draft delegation of authority to implement the provisions of Public Law 93-559 which are of a temporary nature and, therefore, do not warrant inclusion in a formal Executive Order.

The principal reason for amending the Executive Orders at this time is to delegate new Presidential functions enacted in Public Law 93-559. We have also included several proposed amendments reflecting previously enacted amendments to the FAA and FMSA. The nature, purpose, background and effect of the proposed amendments, and their relationship to pertinent laws, are explained below.

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THE EXECUTIVE ORDER

PART I. FOREIGN ASSISTANCE

/ Delegation of Functions to the Secretary of Defense.

Paragraph 1 revokes the delegation of functions under former section 644(i) of the FAA, which section was repealed by section 22(2) of the Foreign Assistance Act of 1973 (Public Law 93-189).

/ Exclusions from Delegation to the Secretary of Defense.

Paragraph 2(a) revokes the reference to former section 514 of the FAA, which section was repealed by section 12(a)(5) of the Foreign Assistance Act of 1973. The new section 514 enacted in Public Law 93-559 relates to an entirely different subject and contains no Presidential functions requiring delegation.

Paragraph 2(b) excludes from the functions delegated to the Secretary of Defense those under section 502B(b) of the FAA. This provision, enacted by section 46 of the Foreign Assistance Act of 1974, requires the President to advise Congress of extraordinary circumstances justifying the furnishing of security assistance to governments which engage in a consistent pattern of gross violations of internationally recognized human rights. Security assistance is defined for purposes of section 502B as including programs administered by the Agency for International Development as well as by the Department of Defense. Further, this section is indicative of a broader Congressional interest in the consideration of human rights in foreign policy formulation, which is the subject of a continuing dialogue between the Congress and the Department of State.

Paragraph 2(b) also excludes from the functions delegated to the Secretary of Defense those under section 505(e) of the FAA. That provision requires the President to notify Congress of each intended consent for the transfer of U.S. furnished defense articles to a third country. This provision, enacted

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by section 12(a)(3) of the Foreign Assistance Act of 1973, supersedes former section 9 of the Foreign Military Sales Act Amendments of 1971 (Public Law 91-672), which has been repealed. Functions under the previous law had been performed by the Secretary of State and the similar requirement set forth in section 3(a) of the FMSA is delegated to the Secretary of State.

✓ Delegation of Functions to the Secretary of the Treasury.

Paragraph 3 revokes the references to former section 514 of the FAA, which section, as noted above, has been repealed, and also delegates to the Secretary of the Treasury the function of submitting reports under sections 634(f) and (g) of the FAA. The latter two provisions were added by section 17 of the Foreign Assistance Act of 1973.

✓ Reservation of Functions to the President.

Paragraph 4(a)(1) reserves to the President functions under section 505(c) of the FAA. That provision requires the reduction and termination of military assistance grants to any country having sufficient wealth to enable it to maintain and equip its own military forces without undue burden to its economy. This function involves the formulation of the President's budget and is considered inappropriate for delegation to the Secretary of Defense.

Paragraph 4(a)(2) reserves to the President functions under section 662(a) of the FAA. That section, added by section 32 of the Foreign Assistance Act of 1974, prohibits the expenditure of appropriated funds for foreign operations of the Central Intelligence Agency other than intelligence gathering unless the President determines that the operation is important to the national security and provides a timely report to the Congress.

Paragraph 4(a)(2) also reserves to the President functions under section 663(b) of the FAA. That provision authorizes the President to allocate raw

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materials received in exchange for U.S. assistance or defense articles to any appropriate U.S. agency for stockpiling or disposal. It was added by section 32 of the Foreign Assistance Act of 1974.

Paragraph 4(b)(1) conforms the Executive Order to an amendment made to section 481 of the FAA by section 11(a) of the FAA of 1973. That amendment designated the former section 481 as subsection (a) and added a new subsection (b) requiring certain reports to the Congress on the International Narcotics Control program. The submission of these periodic reports need not be reserved for the President and, in fact, the required reports have been submitted by the Department of State on the President's behalf.

Paragraph 4(b)(2) reserves to the President functions under section 663(a) of the FAA. That provision, added by section 32 of the Foreign Assistance Act of 1974, authorizes the President to determine that the furnishing of assistance or defense articles under the Foreign Military Sales Act in exchange for raw materials is in the United States national interest.

Paragraph 4(c) adds a proviso to the reservation of the function of determining whether military assistance to a country will strengthen the security of the United States and promote world peace. This proviso continues in effect the delegation to the Secretary of State of making this determination in the context of proposed transfers of defense articles to third countries. Similar authority had been delegated to the Secretary of State by Presidential Determination 73-10 of January 2, 1973 (38 F.R. 7211).

PART II. FOREIGN MILITARY SALES

Eligibility Findings.

Paragraph 1 authorizes the Secretary of State to make findings that transfers to third countries of articles sold under the FMSA will strengthen the

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security of the United States and promote world peace. This provision is parallel to the authorization contained in paragraph 4(c) of Part I of the proposed order, discussed above, and also continues the delegation contained in Presidential Determination No. 73-10.

Credit Sales.

Paragraph 2 modifies the present delegation to the Secretary of Defense of functions under section 23 of the FMSA. The modification would delegate to the Secretary of State the new functions, added by section 45(a)(2) of the Foreign Assistance Act of 1974, of determining that concessional interest rates are required in the national interest in connection with particular sales and reporting such certifications to Congress. This paragraph would require the Secretary of State to consult with the Secretary of Defense and the Secretary of the Treasury before approving any concessional interest rate. The delegation of this function to the Secretary of State is intended to be consistent with the Secretary's supervisory responsibilities under section 2(b) of the FMSA and the existing delegation to him regarding functions under section 34 of the FMSA (Credit Standards).

Reports.

Paragraph 3 delegates functions vested in the President by subsections (a) and (b) of section 36 of the FMSA, which were added by section 45(a)(5) of the FAA of 1974. Under this paragraph, quarterly reports of past sales, projections for future sales, and reports of proposed sales of \$25 million or more would be submitted to the Congress by the Secretary of Defense, who would also be authorized to certify to Congress that an emergency requires immediate implementation of a given sale. The Secretary of Defense would be required to consult with the Secretary of State in the performance of these functions.

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THE DELEGATION OF AUTHORITY

The enclosed draft memorandum for the Secretary of State would delegate those functions vested in the President by the Foreign Assistance Act of 1974 (hereinafter "the Act") which are neither of a permanent character nor appropriate for reservation to the President. The functions proposed for delegation in the draft memorandum are described below:

1. Assistance to South Vietnamese Children --

The function of providing assistance to South Vietnamese children under section 37(b) of the Act.

2. Limitations With Respect to South Vietnam --

The function of transferring economic assistance funds allocated to South Vietnam among functional suballocations and reporting thereon to Congress under section 38(b) of the Act; the function of furnishing reports to Congress on proposed assistance to South Vietnam under section 38(d) of the Act; and the function of submitting quarterly reports to Congress on assistance related obligations in, to, for or on behalf of South Vietnam.

3. Limitations With Respect to Cambodia --

The function of transferring economic assistance funds allocated to Cambodia among functional suballocations under section 39(d) of the Act.

4. Limitations With Respect to Laos --

The function of transferring economic assistance funds allocated to Laos among functional suballocations under section 40(b) of the Act; the function of furnishing reports to Congress on proposed assistance to Laos under section 40(e) of the Act; and the function of submitting quarterly reports to Congress on assistance related obligations in, to, or on behalf of Laos.

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5. Policy on Assistance to Africa --

The function of making a report to Congress on economic assistance to developing countries in Africa under section 49 of the Act.

6. Policy on the Independence of Angola, Mozambique, and Guinea-Bissau --

The function of reporting to Congress on actions taken to show support for a peaceful and orderly transition to independence in the Portuguese African territories and developments in United States policy under section 50(c) of the Act.

7. Conventional Arms Trade --

The function of reporting to Congress on steps taken to propose limitations on conventional arms transfers under section 51(c) of the Act.

8. Involvement of Puerto Rico in the Caribbean Development Bank --

The function of transmitting an instrument to the Caribbean Development Bank authorizing participation therein by Puerto Rico, subject to certain conditions, under section 52(a) of the Act.

9. Policy With Respect to Countries Most Seriously Affected by Food Shortage --

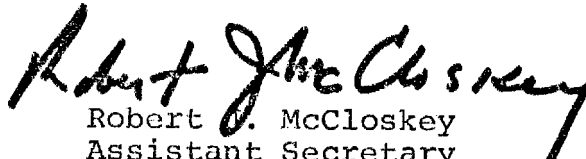
The function of reporting to Congress on global assessments of food needs for fiscal year 1975 under section 55(a)(4) of the Act.

The provisions of the enclosed draft Executive Order and delegation of authority have been approved by the Under Secretary of State for Security Assistance, following consideration of the views of the several agencies concerned. We hope that formal interagency clearance can be obtained on an expedited

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basis and the enclosed documents submitted in final form to the President at an early date.

Sincerely,


Robert J. McCloskey
Assistant Secretary
for Congressional Relations

Enclosures:

1. Proposed Executive Order.
2. Draft Delegation of Authority.

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER NO. 10973, RELATING TO ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS, AND EXECUTIVE ORDER NO. 11501, RELATING TO ADMINISTRATION OF FOREIGN MILITARY SALES

By virtue of the authority vested in me by section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381), and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I. FOREIGN ASSISTANCE

Executive Order No. 10973 of November 3, 1961, is hereby amended as follows:

1. Paragraph (c) of section 201 is revoked.

2. Section 203 is amended as follows:

(a) Paragraph (f) is revoked.

(b) New paragraphs (g) and (h) added at the end of section 203 as follows:

"(g) Those under section 502B(b) of the Act."

"(h) Those under section 505(e) of the Act."

3. Section 301 is amended as follows:

(a) Paragraph (a) is amended to read as follows:

"(a) The functions conferred upon the President by the second sentence of section 612(a) of the Act and by section 634(f) and section 634(g) of the Act."

(b) Paragraph (c) is revoked.

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4. Section 401 is amended as follows:

- (a) Paragraph (a) is amended --
 - (1) by inserting "505(c)" immediately after "504(b),";
 - (2) by striking out "and 633(b)" and inserting in lieu thereof "633(b), 662(a) and 663(b)".
- (b) Paragraph (c) is amended --
 - (1) by striking out "481" and inserting in lieu thereof "481(a)";
 - (2) by striking out "and 634(c)" and inserting in lieu thereof "634(c) and 663(a)".
- (c) by amending subparagraph (d)(1) to read as follows:

"(1) Those under section 503(a) with respect to findings: Provided, that the Secretary of State, in the implementation of the function delegated to him under section 505(e) of the Act, is authorized to determine, in the case of a proposed transfer of a defense article to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace."

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PART II. FOREIGN MILITARY SALES

Section 1 of Executive Order No. 11501 of December 22, 1969, is hereby amended as follows:

1. Paragraph (a) is amended to read as follows:

"(a) Those under section 3 of the Act, with the exception of 3(a)(1) and 3(b), to the Secretary of State: Provided, that the Secretary of State, in the implementation of the function delegated to him under the last paragraph of section 3(a) of the Act, is authorized to determine, in the case of a proposed transfer of a defense article to a foreign country or international organization not otherwise eligible under section 3(a)(1) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace."

2. Paragraph (d) is amended to read as follows:

"Those under section 23 of the Act, with the exception of paragraph (2) of that section, to the Secretary of Defense. The functions vested in the President by section 23(2) of the Act are delegated to the Secretary of State, who shall consult with the Secretary of Defense and the Secretary of the Treasury in the performance of those functions."

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3. Paragraph (h) is amended to read as follows:

"Those under section 36 of the Act to
the Secretary of Defense, who shall
consult with the Secretary of State in
the performance of those functions."

The White House,

1975

THE WHITE HOUSE

Washington, D. C.

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Delegation of Functions Under the
Foreign Assistance Act of 1974

You are hereby designated and empowered to exercise the functions vested in the President by the following sections of the Foreign Assistance Act of 1974 (Public Law 93-559, 88 Stat. 1795) without the approval, ratification, or other action of the President:

1. Section 37(b);
2. Section 38(b), (d) and (e);
3. Section 39(d);
4. Section 40(b), (e) and (f);
5. Section 49;
6. Section 50(c);
7. Section 51(c);
8. Section 52(a); and
9. Section 55(a)(4).

This memorandum shall be published in the
Federal Register.